	Application No.	Applicant(s)
Notice of Allowability	09/471,971	GALUTEN ET AL.
	Examiner	Art Unit
	Robert M. Pond	3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *Amendment (8/11/06) and Examiner's Amendment (Paper #20061027)*.

2. ☒ The allowed claim(s) is/are *5-37 and 43-76*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a) ☐ All   b) ☐ Some*   c) ☐ None   of the:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

        3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

     * Certified copies not received: _____ .

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

     (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

        1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____ .

     (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____ .

     Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)

3. ☒ Information Disclosure Statements (PTO/SB/08),
     Paper No./Mail Date *3/31/06*

4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application

6. ☒ Interview Summary (PTO-413),
     Paper No./Mail Date *20061027* .

7. ☒ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☒ Other *See Continuation Sheet*.

Continuation of Attachment(s) 9. Other: IDS 1449 resubmitted for scanning (7/03/00).

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes

and/or additions be unacceptable to applicant, an amendment may be filed as

provided by 37 CFR 1.312. To ensure consideration of such an amendment, it

MUST be submitted no later than the payment of the issue fee.

Authorization

Authorization for this examiner's amendment was given in a telephone

interview with Mr. Louis DelJuidice, Reg. # 47,522 on 27 October 2006.

Allowed Claims

Claims 5-37 and 43-76 are allowed as entered on 11 August 2006. Claims 1-

4, 38-41, and 77-91 are canceled. Claim 42 is canceled by this Examiner's

Amendment. Claim 43 was identified in the Applicant's Remarks as being

canceled; however, claim 43 was presently presented in the claims and remains

as an allowable claim.

In the Claims

The claims as entered on 11 August 2006 are amended as follows:

- Delete claim 44 in its entirety and insert therefore:

- -44. A system storing computer-readable instructions thereon for execution

by a processor for distributing electronic information, said computer-readable

instructions comprising:

instructions receiving a request for a selected item of information from a

consumer;

instructions formulating one or more offers based on predefine upstream

business rule parameters, wherein the one or more offers are associated with

the selected item of information;

instructions dynamically updating the predefine upstream business rules;

instructions providing the one or more offers to the consumer based on

the dynamically updated business rules;

instructions receiving a selection of one of the offers from the consumer;

instructions validating the one or more offers for the selected item of

information requested by the consumer wherein the validating instructions

references an electronic contract between one of a content owner and a

distributor and a retailer, determines whether the offer is consistent with the

electronic contract, and validates the offer when the offer when the offer is

consistent with the electronic contract; and

instructions delivering the requested information to the consumer and

enabling the consumer to use the delivered information in accordance with

the selected offer.- -

- Claim 45, line 1, delete "module provides" and insert therefore:

  - -instructions provide- -

- Claim 46, line 1, delete "module provides" and insert therefore:

  - -instructions provide- -

- Claim 47, line 1, delete "module" and insert therefore: - -instructions- -

- Claim 47, line 2, delete "generate" and insert therefore: - -generates- -

- Claim 48, line 1, delete "module generates" and insert therefore: - -

  instructions generate- -

- Claim 49, line 1, delete "module provides" and insert therefore:

  - -instructions provide- -

- Claim 50, line 1, delete "module" and insert therefore: - -instructions- -

- Claim 50, line 2, delete "updates" and insert therefore: - -update- -

- Claim 51, line 1, before "transaction" delete "a"

- Claim 51, line 2, delete "module" and insert therefore: - -instructions- -

- Claim 53, line 1, delete "module" and insert therefore: - -instructions- -

- Claim 53, line 2, delete "verifies" and insert therefore: - -verify- -

- Claim 54, line 1, delete "module" and insert therefore: - -instructions- -

- Claim 54, line 2, delete "receives" and insert therefore: - -receive- -

- Claim 55, line 1, delete "module provides" and insert therefore:

  - -instructions provide- -

- Claim 56, line 1, delete "module" and insert therefore: - -instructions- -

- Claim 56, line 2, delete "provides" and insert therefore: - -provide- -

- Claim 57, line 1, before "registration" delete "a"

- Claim 57, line 2, delete "module which operates" and insert therefore:

  - -instructions which operate- -

- Claim 58, line 1, delete "module delivers" and insert therefore:

  - -instructions deliver- -

- Claim 59, line 1, delete "module delivers" and insert therefore:

  - -instructions deliver- -

- Claim 60, line 1, delete "module delivers" and insert therefore:

  - -instructions deliver- -

- Claim 61, line 1, delete "module delivers" and insert therefore:

  - -instructions deliver- -

- Claim 62, line 1, delete "module" and insert therefore: - -instructions- -

- Claim 62, line 2, delete "provides" and insert therefore: - -provide- -

- Claim 63, line 1, before "monitoring" delete "a"

- Claim 63, line 2, delete "module" and insert therefore: - -instructions- -

- Claim 64, line 1, delete "module detects" and insert therefore:

  - -instructions detect- -

- Claim 64, line 2, delete "determines" and insert therefore: - -determine- -

- Claim 64, line 3, delete "prevents" and insert therefore: - -prevent- -

- Claim 65, line 1, delete "a tracking module" and insert therefore: - -tracking

  instructions- -

- Claim 66, line 1, before "transaction" delete "a"

- Claim 66, line 2, delete "module" and insert therefore: - -instructions- -

- Claim 67, line 2, delete "module effects" and insert therefore:

  - -instructions effect- -

- Claim 68, line 1, delete "module" and insert therefore: - -instructions- -

- Claim 68, line 2, delete "provides" and insert therefore: - -provide- -

- Claim 69, line 1, delete "module" and insert therefore: - -instructions- -

- Claim 69, line 2, delete "provides" and insert therefore: - -provide- -

- Claim 70, line 1, delete "a query module" and insert therefore: - -query

  instructions- -

- Claim 70, line 2, delete "operates" and insert therefore: - -operate- -

- Claim 71, line 1, delete "module" and insert therefore: - -instructions- -

- Claim 71, line 2, delete "utilizes" and insert therefore: - -utilize- -

- Claim 72, line 1, delete "module" and insert therefore: - -instructions- -

- Claim 72, line 2, delete "utilizes" and insert therefore: - -utilize- -

- Claim 73, line 1, before "certifying" delete "a"

- Claim 73, line 2, delete "module" and insert therefore: - -instructions- -

- Claim 74, line 1, delete "module determines" and insert therefore:

  - -instructions determine- -

- Claim 74, line 2, delete "designates" and insert therefore: - -designate- -

- Claim 75, line 1, delete "module determines" and insert therefore:

  - -instructions determine- -

- Claim 75, line 2, delete "designates" and insert therefore: - -designate- -

- Claim 76, line 1, delete "module" and insert therefore: - -instructions- -

- Claim 76, line 2, delete "operates" and insert therefore: - -operate- -

In the Specification

The specification entered 23 December 1999 is amended as follows:

- Page 1, line 19, delete "1998," and insert therefore: - - 1998 and
  Provisional Patent Application Serial No. 60/127,260 filed March 31,
  1999,- -

- Page 1, line 20, delete "disclosure by which is" and insert therefore:
  - -disclosures by which are- -

- Page 3, line 16, after "module" insert therefore: - -(i.e. instructions
  executable by a computer processor)- -

In the Abstract

Delete the abstract in its entirety and insert therefore:

- - An electronic media distribution system which facilitates the distribution of

media to consumers over a network, such as the Internet, while achieving

commercial business objectives and protecting the intellectual property rights

associated with the media being distributed. The system provides the

infrastructure and support for various market participants to engage in buying,

selling, finding and distributing music. The system provides an interface for

consumers to locate, access and receive musical content over the Internet.

The system facilitates continued control over the musical content sent to consumers by dynamically enforcing retailer agreements and restrictions governing the purchase, use, and distribution of the content. The system also provides a service to retailers and distributors in assisting with the management of sales and distribution of music over the Internet. Specifically, the system certifies and distributes retail offers for the content where the offers are dynamically updated by electronic contracts between the retailers and distributors of the music.- -

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The field of the invention relates to a system and method of distributing electronic content to users, and specifically pertains to providing a system and method that allow retailers to formulate offers for selected content, and as supported by the system validates one or more offers to ensure compliance with the contract governing use, and delivers the validated offer to the consumer.

Pertaining to claim 1: The prior art of record neither discloses nor teaches and suggests the combination of:

    a) formulating one or more offers based on predefined upstream business rule parameters wherein the one or more offers are associated with the selected item of information and dynamically updating the predefined upstream business rule parameters. Ginter discloses updating

parameters but only when it has to update. The claimed invention distinguishes itself over Ginter by looking back to the upstream business rule parameters to determine whether an offer is consistent with the content's electronic contract prior to facilitating the transaction.

b) validating one or more offers for the selected item referencing an electronic contract between one of a content owner and distributor and retailer (i.e. by a different party). The claimed invention distinguishes itself over Ginter by referencing an electronic contract before the transaction takes place.

The claimed invention further distinguishes itself over Ginter by providing the consumer with the most up-to-date offers consistent with the contract governing use of the selected content by looking backward upstream to dynamically update the predefined upstream business rule parameters.

Pertaining to claim 44: The prior art of record neither discloses nor teaches and suggests the claimed invention for the same rationale as noted above.

Closest US Patents/Patent Publications

<u>US 5,910,987 (Ginter as cited in Paper # 20060405)</u>

Ginter discloses systems and methods for implementing rights management using a variety of mechanisms, the preferred embodiment utilizing a virtual distribution environment (VDE) container. Ginter discloses updating parameters but such changes flow downstream to the consumer when it has to change or is

forced to change contractual parameters. The claimed invention distinguishes itself over Ginter by looking backward to update the upstream business rule parameters and determining whether an offer is consistent with the content's electronic contract prior to facilitating the transaction. Consequently, the claimed invention further distinguished itself over Ginter by providing the consumer with the most up-to-date offers consistent with the contract governing use of the selected content.

Forward and backward citations on Ginter produced prior art in the field but failed to produce prior art stronger than Ginter as it pertains to the claimed combination.

Closest Non-patent Literature

Smith (PTO-892 Item: U cited as being pertinent in Paper #20060405)

The Applicant's arguments entered 11 August 2006 are persuasive pertaining to Smith. The Examiner noted Smith under Response to Arguments in the previous final office action. While Smith discloses InterTrust's digital content container, the example relied upon by the Examiner describes a situation where the offer that was modified started on the front end of the distribution chain and flowed downward to the consumer. Smith does not provide an example of the claimed invention.

Neither Ginter alone nor Ginter in view of Smith disclose or teach and suggest the claimed invention.

Closest Foreign Patent Publication

<u>*WO 9737316 (Johnson)*</u>

Johnson discloses rights management, data structures to support rights

management functions but fails to disclose the claim invention.

Conclusion

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert M. Pond whose telephone number is 571-272-6760. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service

Representative or access to the automated information system, call 800-786-

9199 (IN USA OR CANADA) or 571-272-1000.

Robert M. Pond
Primary Examiner
October 29, 2006